

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION TWENTY-FIVE

STUART MANUFACTURING, INC.
Employer

and

INDIANA JOINT BOARD, RETAIL, WHOLESALE &
DEPARTMENT STORE UNION COUNCIL, a/w UNITED
FOOD & COMMERCIAL WORKERS INTERNATIONAL
UNION, AFL-CIO
Petitioner

Case 25-UC-228

DECISION AND ORDER

Upon a petition filed under Section 9(b) of the National Labor Relations Act, as amended, careful investigation and consideration took place.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned Regional Director.

Upon the entire record in this proceeding, the Regional Director finds:

- (1) The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
- (2) The Petitioner proposes to clarify the bargaining unit by the addition of four employees who receive and distribute materials to the production floor for manufacturing, and ship finished product to customers. The Petitioner proposes to add these four employees to the existing unit of employees that the Employer recognizes under the existing collective bargaining agreement.

(3) Clarification of the bargaining unit is not warranted inasmuch as evidence adduced during the investigation of the above petition was insufficient to establish that the employees at issue herein, known by the Employer as material control employees and a business development support specialist, would be appropriate for accretion to the existing unit of employees covered under the collective bargaining agreement at this time. In determining whether a group of employees constitute an accretion to an existing unit, the Board considers various factors, including the extent of employee interchange, common supervision, centralized control of labor relations, the centralization of administrative control, the degree of operational integration, the geographic proximity of work sites, the similarity of employee skills, functions and working conditions, collective-bargaining history, and the number of employees to be accreted in comparison to the size of the existing unit. Here, the Petitioner seeks to accrete four employees to an existing unit of approximately 40 employees. The totality of evidence submitted does not support a finding of accretion for the following reasons. The employees at issue perform certain skills and functions that are not shared by the existing unit employees, there is no evidence of interchange of duties or common supervision between the employees that the Petitioner seeks to accrete with the existing unit employees, and the sought employees enjoy certain benefits and terms and conditions of employment that are not shared by the existing unit employees. Finally, and perhaps most significantly, the Employer has a long history of assigning shipping and receiving functions to non-unit employees, including a time frame that precedes the most recent contract negotiations between the Petitioner and the Employer. In such circumstances, a unit clarification petition is not appropriate. Bethlehem Steel Corporation, 329 NLRB 243 (1999). Accordingly, based on all evidence submitted, I have concluded that the petition should be dismissed.¹

ORDER

The petition filed in this matter is dismissed.

¹ There was no response to the Regional Director's "Order to Show Cause Why Petition Should Not Be Dismissed," which was issued on June 8, 2004.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, DC 20570. This request must be received by the Board in Washington by July 16, 2004.

Dated at Indianapolis, Indiana this 2nd day of July, 2004.

/s/ Patricia K. Nachand

Patricia K. Nachand
Acting Regional Director
National Labor Relations Board
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